

IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR

&

THE HON'BLE MR.JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO :8755 of 2006

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Dated: 26th April 2006.

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Between:

M/s.SAREGAMA India Ltd.Ramanthapur, Hyderabad, represented by its
Depot Executive, Mr.N.Sundaravadanam

..... PETITIONER

AND

The Addl. Commissioner of Commercial Taxes (Legal),
O/o The Commissioner (CT), A.P., Hyderabad and two others

..... RESPONDENTS

THE HON'BLE MR JUSTICE J.CHELAMESWAR

&

THE HON'BLE MR.JUSTICE M.VENKATESWARA REDDY

Writ Petition No. 8755 of 2006

ORAL ORDER : (per JC,J)

The petitioner is a Public Limited Company, is a registered dealer under the APGST Act. For the assessment year 2003-2004, an assessment was made fixing the sales tax liability at Rs.83,81,519/-. Aggrieved by the said assessment, the petitioner carried the matter in appeal to the 2nd respondent. Along with the appeal, the petitioner filed an application seeking stay of the recovery of the tax assessed. The said application was rejected by an order of the 2nd respondent. Hence the present writ petition with the prayer as follows :

“For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon’ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of a Writ of Mandamus declaring the action of the 1st respondent rejecting the stay application for the assessment year 2003-2004 (APGST) pending appeal before the 2nd respondent who passed order in CCT’s Ref.No.L.III(1)/251/2006, dated 24.3.2006 (served on the petitioner on 4.6.2006) without considering the detailed grounds of revision and petition filed by the petitioner seeking stay of recovery of the disputed tax for the assessment year 2003 – 2004 under the APGST Act through its proceedings CCT’s Ref.No.L.III(1)/251/2006 dt. 24.3.2006 (served on the petitioner on 4.6.2006) without considering the detailed grounds of revision and a well considered judgment of the Sales Tax Appellate Tribunal, reported in 37 STJ Pg.211, as also the judgments of this Hon’ble Court, as illegal, arbitrary and unconstitutional and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

Heard the learned Government Pleader. In view of the pendency of the appeal, we deem it appropriate to dispose of the writ petition at the admission stage. Even according to the petitioner, the petitioner is liable to pay tax at the rate of 4% on the turn over and according to the petitioner the tax were to be computed at the rate of 4% of the turnover and he would be liable to pay Rs.32 lakhs (Rupees Thirty two lakhs only) as against the assessment of Rs.83,81,519/-. Therefore, the balance of Rs.52 lakhs is a disputed liability which is required to be decided in the appeal.

In the circumstances, we deem it appropriate to dispose of the writ petition at the admission stage directing the respondents not to take any coercive steps for recovery of tax pursuant to the assessment order referred to earlier on condition the petitioner deposits an amounts of Rs.57 lakhs within a period of four weeks. In computing the said amount, the amount if any paid already shall be given credit.

The writ petition is accordingly disposed of at the admission stage.

knk 26.04.2006

Note : Operative portion by wire

at party's costs

(b/o)

knk